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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YOUNIES BAYOUMY,

Defendant.

. Case No. 17-cr-00184-JD-1

.

. 601 Market Street

. Philadelphia, PA

.

. February 12, 2018

. 11:26 a.m.

FILED

FEB 27 2018

KATE WARD, Clerk

By: [Signature] D.P. Clerk

TRANSCRIPT OF ORAL ARGUMENT
BEFORE HONORABLE JAN E. DUBOIS
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 THE COURT: Good morning, everyone.

2 MS. ROTELLA: Good morning, Your Honor.

3 MR. ST. JOSEPH: Good morning, Your Honor.

4 THE COURT: Please be seated.

5 I call the case of the United States of America vs.
6 Younies Bayoumy, criminal number 17-184. The Defendant has
7 filed a motion for a trial continuance. I'll hear from Counsel.

8 MS. GAUGHAN: Your Honor, I did file a motion for an
9 additional 60 days continuance request. I believe the request
10 is necessary in order for me to completely present some evidence
11 to the Government that if -- and in the event this matter is not
12 able to be dealt with in a non-trial way that would give
13 sufficient time for me also to adequately prepare the case for
14 trial.

15 THE COURT: Unfortunately, my trial calendar will not
16 permit a trial in 60 days which would take us to mid-April. How
17 long will it take to try the case?

18 MS. GAUGHAN: Your Honor, I don't think it's an overly
19 long case. I think probably three days, four days.

20 THE COURT: Three days for all the counts?

21 MR. BOROWSKY: Your Honor, I think it's a fairly
22 straightforward trial. I would agree with that. Four days at
23 most.

24 THE COURT: That's four days for the Government, and I
25 don't want to -- unless you know that you're going to present

1 evidence. You don't have to tell me what you're thinking
2 though.

3 MS. GAUGHAN: I would probably be presenting some
4 evidence, yes. So I would say a day-and-a-half, perhaps. So
5 maybe it would be a full week. I guess that would be the more
6 accurate.

7 THE COURT: All right. The first thing we'll do,
8 we'll take a look at my calendar, pick a date and then I'll
9 colloquy the Defendant.

10 (Pause in proceedings.)

11 THE COURT: The 60 days would take us to the Smuckler
12 trial, which I'm told --

13 Ms. Hull, is that going forward or? I mention it
14 because it's gotten a lot of publicity. And aside from the fact
15 that they've delivered motions in cartons, I think it will be --
16 I see no reason now why it won't go forward. So that's out.
17 And what about Tuesday, May 22nd? Who will be trying the case,
18 Ms. Rotella or Mr. Borowsky?

19 MR. BOROWSKY: I would be, Your Honor. I'm confident
20 Ms. Rotella would assist, certainly.

21 THE COURT: She's second chair today?

22 MS. ROTELLA: Yes, Your Honor. I am. Thank you.

23 THE COURT: But welcome back to this courtroom,
24 Ms. Rotella.

25 MS. GAUGHAN: That's a fine date for me, Your Honor.

1 May 22nd. Just double-checked.

2 THE COURT: Have you explained the colloquy procedure?

3 MS. GAUGHAN: I have.

4 THE COURT: Again, I know we've done this once before.

5 MS. GAUGHAN: Yes. I have explained the colloquy
6 procedure to my client.

7 THE COURT: Fine.

8 Mr. Bayoumy, this case is presently scheduled for
9 trial to begin today. Your attorney has asked for a trial
10 continuance, a postponement. Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: You've done this once before. She now
13 states in her motion that she needs additional time to continue
14 to explore with the Government what we refer to as a non-trial
15 disposition, a guilty plea. And if that doesn't work out, she
16 needs time to prepare the case for trial.

17 Do you understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: You have a right to go to trial within 70
20 days of your first appearance in court and as of this date, that
21 70-day period expires April 2, 2018.

22 You understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: I have the authority under the Speedy
25 Trial Act to continue cases beyond the Speedy Trial Act deadline

1 for reasons such as those advanced by your attorney.

2 Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you agree to a continuance of the trial
5 from today, February 12, 2018, to Tuesday, May 22, 2018?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you agree to waive your Speedy Trial
8 Act rights to the extent of that delay? You want to talk?

9 (Counsel and Defendant confer.)

10 MS. GAUGHAN: Thank you, Your Honor.

11 THE COURT: Do you agree to waive your Speedy Trial
12 Act rights to the extent of the delay in bringing the case to
13 trial from February 12, 2018, to May 22, 2018?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you agree that that delay may be
16 excluded in calculating the time within which the case must be
17 brought to trial under the Speedy Trial Act?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Do you have any questions about that?

20 THE DEFENDANT: No. Thank you, Your Honor.

21 THE COURT: All right. The motion is granted. The
22 trial is continued from today, February 12, 2018, to Tuesday,
23 May 22, 2018, at 10:00 a.m. in this courtroom. You're both
24 attached -- the three of you are attached for trial.

25 All right. I think we'll plug in a date. Well, you

1 tell me.

2 First, you, Mr. Borowsky. Does the Government plan to
3 file any other pretrial motions?

4 MR. BOROWSKY: At this time, no, Your Honor. I don't
5 believe so.

6 THE COURT: Does the Defense plan to file any other
7 pretrial motions?

8 MS. GAUGHAN: Possibly, Your Honor, yes.

9 THE COURT: All right. What we'll do is schedule a
10 day for doing that.

11 How soon can you file those motions, Ms. Gaughan?

12 MS. GAUGHAN: I would ask for a month for filing. It
13 would probably only be one motion.

14 THE COURT: A motion that requires a hearing?

15 MS. GAUGHAN: Yes.

16 THE COURT: All right. Pretrial motions filed
17 March 16th. Responses within seven days of service, but in no
18 event later than March 27th. A hearing on any motion requiring
19 a hearing --

20 MR. BOROWSKY: Your Honor, just briefly, if I may.
21 After a brief discussion with Ms. Rotella, it appears there may
22 be one or two motions to be filed by the Government possibly
23 pending further discussion with the Defense. Just wanted to
24 make the Court aware of that.

25 THE COURT: Motions in limine or?

1 MR. BOROWSKY: Yes.

2 THE COURT: All right. I will schedule a hearing now.
3 Ms. Hull?

4 (Discussion between Court and Clerk off the record.)

5 THE COURT: I'm trying to set a hearing. Motions
6 March 16th. Responses within seven days no later than
7 March 23rd, which is a Friday. A hearing on any motions that
8 require a hearing, March 30th, 10:00 a.m.

9 Is that convenient?

10 MS. GAUGHAN: Yes, Your Honor.

11 THE COURT: All right. I want a status report and
12 we'll do it before the -- require that before the date for
13 filing motions. We'll make it March 12th. The status report
14 deadline is not designed to require a decision on trial versus
15 non-trial disposition by that date. I want to know as of that
16 date, March 12th, would be roughly two months from today,
17 whether you're planning on going to trial or whether there will
18 be a non-trial disposition. But if you haven't decided that, if
19 the Defense hasn't decided that issue, simply say, Judge, we
20 have not decided whether we're going to trial or not.

21 MS. GAUGHAN: Understood.

22 THE COURT: And we can supplement this report if
23 you're in the position to say that.

24 MS. GAUGHAN: Okay.

25 THE COURT: The purpose of the, again, this status

1 report, is to give me the status as of that date, not to require
2 a decision by that date. The only other things we'll schedule
3 are trial documents. Because of the nature of the charges, I'm
4 going to require that they be submitted three weeks in advance,
5 which would be May --

6 THE CLERK: 1st.

7 THE COURT: -- 1st. All right. And, if after getting
8 the trial documents I decide that a final pretrial conference is
9 appropriate, I'll schedule it. Again, I'm concerned about the
10 number of charges, the nature of the charges. So if the case is
11 going to trial, we'll probably schedule a final pretrial
12 conference after -- again, after I receive the trial documents
13 and close to the time of trial. I don't see a need to do that
14 right now, particularly since my schedule is deadly.

15 Is there anything else that needs to be done at this
16 time?

17 MS. GAUGHAN: No, Your Honor.

18 MR. BOROWSKY: No, Your Honor.

19 THE COURT: All right. With that, another welcome to
20 Ms. Rotella, although I won't be hearing --

21 MS. ROTELLA: Thank you, Your Honor.

22 THE COURT: -- I won't be hearing from you very often,
23 during the trial, I gather. And if we have a final pretrial
24 conference, I'll see you or the case results in a plea, I'll see
25 you on May 22nd.

1 Court's adjourned. Defendant is remanded to the
2 custody of the U.S. Marshals.

3 THE MARSHAL: All rise.

4 (Proceedings adjourned at 11:42 a.m.)
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C E R T I F I C A T I O N

I, Deborah Anderson, court approved transcriber,
certify that the foregoing is a correct transcript from the
official electronic sound recording of the proceedings in
the above-entitled matter, and to the best of my ability.



Deborah Anderson, CET-998

Date: February 19, 2018